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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,659	02/26/2002	Tomohiro Nishi	450100-03743	8660
20999	7590	11/26/2004	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			YENKE, BRIAN P	
		ART UNIT	PAPER NUMBER	
		2614		

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/085,659	NISHI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	BRIAN P. YENKE	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>14 October 2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Priority*

1. The present application claims priority from foreign application JP2001-283180.

However upon closer review of the foreign application, the drawings/subject matter are directed to an IC card which performs authentication for electronic watermarking. The examiner requests the applicant to ensure the present application is disclosed in the foreign application, to ensure priority has been established.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12, 12, 11, 12, 13, 14, 15, 13, 14, 15, 16 and 17 respectively of U.S. Patent No. 6,674,561. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

It is noted by the examiner that the pending claims are broader than the patented narrower claims which further recite the light being visible and the additional description of the modulation including superposing, thus warranting the double patenting rejection.

In considering claim 1,

a) *the claimed periodically modulating...* is met by patented claim 1, limitation a, however the pending claim does not recite visible light. However, in the environment of copy protection it would have been obvious to modulate the visible light in order to hamper an pirated/illegally copied movie/image, which would provide a distorted/unclear image when viewed by a individual thus warranting the protection of the data.

b) *the claimed said optical state variation...* is met by patented claim 1, limitation b.

It is also noted that the pending claim does not recite "said visible light being superposed on an original display image to produce said displayed image", however the pending claim recites the modulation of the luminance data, and since modulation involves the placement/laying over (i.e. superposing) of the original image, the limitation is therefore met.

In considering claims 2-9,

Patented claims 2-9 recite all the claimed limitations verbatim.

In considering claim 10,

- a) *the claimed projection...* is met by patented claim 10, limitation a.
- b) *the claimed an optical state modulation...* is met by patented claim 10, limitation b.
- c) *the claimed the luminance...* is met by patented claim 10, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 10, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 11,

- a) *the claimed projection...* is met by patented claim 11, limitation a.
- b) *the claimed an optical state modulation...* is met by patented claim 11, limitation b.
- c) *the claimed the luminance...* is met by patented claim 11, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 11, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 12,

- a) *the claimed projection...* is met by patented claim 12, limitation a.
- b) *the claimed an optical state modulation...* is met by patented claim 12, limitation b.
- c) *the claimed the luminance...* is met by patented claim 12, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 12, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 13,

- a) *the claimed a direct view...* is met by patented claim 12, limitation a. Although, the patented claims recite projector and the pending claim state direct view, it is known that a projection system is a direct view display, thus not patentably distinct.
- b) *the claimed an optical state modulation...* is met by patented claim 12, limitation b.
- c) *the claimed the luminance...* is met by patented claim 12, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 12, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 14,

- a) *the claimed a direct view...* is met by patented claim 11, limitation a. Although, the patented claims recite projector and the pending claim state direct view, it is known that a projection system is a direct view display, thus not patentably distinct.
- b) *the claimed an optical state modulation...* is met by patented claim 11, limitation b.
- c) *the claimed the luminance...* is met by patented claim 11, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 11, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 15,

- a) *the claimed a direct view...* is met by patented claim 12, limitation a. Although, the patented claims recite projector and the pending claim state direct view, it is known that a projection system is a direct view display, thus not patentably distinct.
- b) *the claimed an optical state modulation...* is met by patented claim 12, limitation b.
- c) *the claimed the luminance...* is met by patented claim 12, limitation d.
- d) *the claimed said optical state variation...* is met by patented claim 12, limitation e.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 16,

- a) *the claimed a periodic luminance modulation...* is met by patented claim 13, limitation a.
- b) *the claimed displayed image...* is met by patented claim 13, limitation b.
- c) *the claimed said optical state variation...* is met by patented claim 13, limitation c.

Regarding the visible light, and superposing limitation refer to claim 1 above.

In considering claim 17,

- a) *the claimed a periodic luminance modulation...*is met by patented claim 14, limitation a.
- b) *the claimed displayed image...*is met by patented claim 14, limitation b.
- c) *the claimed said optical state variation...*is met by patented claim 14; limitation c.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 18,

- a) *the claimed a periodic luminance modulation...*is met by patented claim 15, limitation a.
- b) *the claimed displayed image...*is met by patented claim 15, limitation b.
- c) *the claimed said optical state variation...*is met by patented claim 15, limitation c.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 19,

- a) *the claimed a periodic luminance modulation...*is met by patented claim 13, limitation a.
- b) *the claimed displayed image...*is met by patented claim 13, limitation b.
- c) *the claimed said optical state variation...*is met by patented claim 13, limitation c.

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 20,

- a) *the claimed a periodic luminance modulation...*is met by patented claim 14, limitation a.
- b) *the claimed displayed image...*is met by patented claim 14, limitation b.

c) *the claimed said optical state variation...is met by patented claim 14, limitation c.*

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 21,

a) *the claimed a periodic luminance modulation...is met by patented claim 15, limitation a.*

b) *the claimed displayed image...is met by patented claim 15, limitation b.*

c) *the claimed said optical state variation...is met by patented claim 15, limitation c.*

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 22,

a) *the claimed a periodic luminance modulation...is met by patented claim 16, limitation a.*

b) *the claimed displayed image...is met by patented claim 16, limitation b.*

c) *the claimed said optical state variation...is met by patented claim 16, limitation c.*

Regarding the visible light and superposing limitation, refer to claim 1 above.

In considering claim 23,

a) *the claimed a periodic luminance modulation...is met by patented claim 17, limitation a.*

b) *the claimed displayed image...is met by patented claim 17, limitation b.*

c) *the claimed said optical state variation...is met by patented claim 17, limitation c.*

Regarding the visible light and superposing limitation, refer to claim 1 above.

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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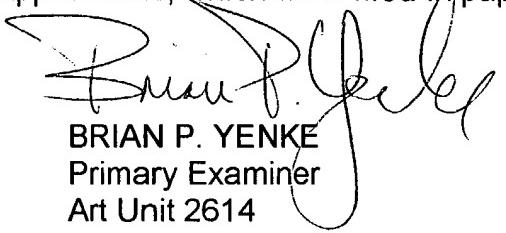
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documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

  
BRIAN P. YENKE  
Primary Examiner  
Art Unit 2614

  
B.P.  
23 November 2004